



S/N 09/945,394

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steve Van Kirk

Examiner: Tuan T. Dinh

Serial No.: 09/945,394

Group Art Unit: 2836

Filed: August 30, 2001

Docket: 303.755US1

Title: CIRCUIT BOARD PLANE INTERLEAVE APPARATUS AND METHOD

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Restriction Requirement mailed June 3, 2003, the Applicant elects, with traverse, Species XII (i.e., FIGS. 15-19 and claims 1-6, 8-11, 19-22, 24-40, 42-48, and 50-64). The requirement is traversed on the basis that a *prima facie* case for restriction has not been made.

A. A Prima Facie Case for Restriction Has Not Been Made

The United States Patent Office has taken the position that a distinctness requirement between inventions requires division on the basis of (1) separate classification, (2) separate status in the art, or (3) a different field of search. *Patent Prosecution*, Ira H. Donner, 2nd Ed., pg. 1008, 2002. Thus, if "the classification is the same and the field of search is the same, and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among related inventions." M.P.E.P. § 808.02.

First, it should be noted that many of the elements and/or components recited in the independent claims may be found in the same class, such that the classification for the claimed embodiments should be the same. They should have no separate status in the art, and no different field of search should be required.

Second, no indication has been given in the Requirement as to a reason for separate classification, status, or field of search. Since the classification for the claimed embodiments should be the same, since they appear to have no separate status in the art, since a different field of search should not be required, and since there is no evidence in the record to indicate otherwise, it is respectfully asserted that a *prima facie* case for restriction has not been

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established. Therefore it is respectfully requested that the Restriction Requirement be reconsidered and withdrawn.

B. Provisional Election

The Applicant believes that no proper *prima facie* case for restriction has been made. However, the Applicant provisionally elects, with traverse, the claims indicated in the Restriction Requirement to be directed to Species XII (i.e., FIG. 15). Claims 1-6, 8-11, 19-22, 24-40, 42-48, and 50-64 are believed readable on the elected Species. Claim 1 is believed to be generic

The Examiner is invited to contact the Applicant's Representative Mark V. Muller at (210) 308-5677, or the undersigned, if there are any questions regarding this Response or if prosecution of this Application may be assisted thereby. If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,
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By his Representatives,

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Date

27 June '03

By

Timothy B. Clise
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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27th day of June, 2003.

Name

Amy Moriarty

Signature

